IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.21586 of 2004

Between:

1. S.T.B.E.M.High School, Vijayawada, rep.by its Secretary and Correspondent Sri T.Jairam Prasad.
2. S.T.B.E.M.Primary School, Vijayawada, rep.by its Secretary and Correspondent Sri T.Jairam Prasad.

...PETITIONERS

AND

1. State of Andhra Pradesh, rep.by its Principal Secretary to Government, Education Department, Secretariat Buildings, Saifabad, Hyderabad.
2. The Director of School Education, Andhra Pradesh, Hyderabad.
3. The District Educational Officer, Krishna at Machilipatnam.
4. The Deputy Educational Officer, Vijayawada, Krishna District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of writ of Mandamus declaring as illegal, arbitrary and unconstitutional the orders of the 1st Respondent issued in Memo No.12080/COSE/A2/2004-4 dt.20.10.2004 as also the proceedings Rc.No.59/2004 dated 10.11.2004 issued by the 4th respondent and issue a consequential direction to the Respondents to permit the petitioners to

conduct interview as per schedule.

Counsel for the Petitioners: MR.D.V.SITARAMAMURTHY

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

The Court made the following:

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO.21586 of 2004

ORDER:

Heard Sri D.V.Sitaramamurthy, the learned counsel for the petitioners and the learned Government PIeader for School Education.

The petitioners herein, who are the management institutions, filed this Writ Petition, *inter alia*, seeking to assail the impugned proceedings dated 20.10.2004 and 10.11.2004 passed by the first and the fourth respondents respectively, rejecting the petitioners' claim for proceeding with the filling up of the vacancies as already initiated.

The main grievance of the petitioners is that the respondents are trying to press into service the ban imposed by them as per the Memo No.12080/COSE/A2/2004-4, dated 20.10.2004, whereas the permission for appointments was already given much earlier to the issuance of the above mentioned memo. It is also pointed out that even the memo itself speaks to an extent with regard to the permissions, which were already granted. The same reads as follows:

> "No new posts of Grant-in-Aid would be created and the existing vacancies will also not be filled up, except what has been specifically authorized since there is a General ban on recruitment except for the posts, for which permission was specifically granted by the Government".

Accordingly, the case of the petitioners is that there cannot be any impediment in proceeding with the selection, which was already commenced.

This Court granted interim direction dated 25.11.2004 in W.P.M.P.No.28291 of 2004, directing the respondents to permit the petitioners to proceed with the interview.

On hearing both sides and on perusal of the material available on record, there is no serious dispute on behalf of the respondents to the basic fact that the permission was already granted in favour of the petitioners for making appointments, much before the issuance of the aforesaid memo. Even otherwise, on the reading of the above said contents of the memo as extracted above, that itself makes an exception with regard to the prior granted situation. In view of the same, there is absolutely justification on the part of the respondents to put aside the said memo or the ban as imposed there under as against the petitioners and in this case, it is to be held that the petitioners are entitled to proceed with the entire process of appointment in terms of the permission granted much prior to the ban.

The Writ Petition is accordingly allowed and the impugned orders are set aside.

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(B.PRAKASH RAO, J)

25th February 2005

RRB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the twenty fifth day of February Two thousand and five.

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Principal Secretary to Government, State of Andhra Pradesh, Education Department, Secretariat Buildings, Saifabad, Hyderabad.
2. The Director of School Education, Andhra Pradesh, Hyderabad.
3. The District Educational Officer, Krishna at Machilipatnam.
4. The Deputy Educational Officer, Vijayawada, Krishna District.

5. Two CCs to G.P. for Education, High Court Buildings, Hyderabad (OUT).
6. Two CD copies.